

FREDERICK COUNTY LIQUOR BOARD
Public Meeting Minutes
Monday, October 8th, 2018

Those Present: Mrs. Debbie Burrell, Chair
Mr. Frank Davis, Board Member
Ms. Joan Aquilino, Board Member
Mrs. Linda Thall, Senior Assistant County Attorney
Mr. Bob Shrum, Alcoholic Beverage Inspector
Mr. Robert Lind, Alcoholic Beverage Inspector
Ms. Penny Bussard, Liquor Board Coordinator
Ms. Ashley Kneessi, Administrative Specialist V
Mrs. Dawn Shugars, Administrative Specialist V

A Public Meeting was held at 12 E. Church Street, Frederick, Maryland, and was called to order at 9:09 AM by the Chair, Debbie Burrell.

1. Board Comments – Mrs. Burrell announced that the Liquor Board staff meetings will now be open to the public.
2. Violations
 - a. Sales to Minor

Green Turtle
Michael Murray, Paula Brodell, William Murray
for the use of GT Frederick, LLC.
t/a Green Turtle, Suite A101
3501 John Simmons St,
Frederick, MD 21704
Class B, On Sale, Beer, Wine & Liquor
License #11BL 6144, FCLB Case#11572

Mrs. Thall swore in the witnesses. Mrs. Thall read the charge that on May 4th, 2018 at approximately 7:38 pm, either directly or through an employee, you sold or provided an alcoholic beverage to a person under the age of twenty one years. The person identified as Holly Selbert was allowed to possess an alcoholic beverage in violation of §6-304 Maryland Annotated Code and §6.16 (a) and (g) of the Frederick County Alcoholic Beverages Regulations. The licensee plead guilty. The Maryland State Police report was made part of the record.

The officer and the minor entered the establishment, Holly Selbert was an explorer with the Maryland State Police. The minor ordered a glass of Bud Light. The server did request to see identification and stated that the manager needed to approve the sale. The manager reviewed the identification and approved the sale.

Mrs. Burrell asked if an alcohol awareness person was on staff at the time of the sale. Mr. Murray replied, "Yes ma'am, the bartender Casey Marsh." She asked if they have a server training policy in place. Mr. Murray answered, "Yes." After the incident they terminated the manager on duty as a result of this incident. All managers have completed the TIPS certification course. They will be attending the ID Training on November 9th. Mr. Murray added that 80% of their staff is now TIP, TAM, or RAM certified. The remaining 20% will be going to Hanover to get certified this evening. Mrs. Burrell asked Officer Carter how many compliance checks were performed that day. Officer Carter stated about 10.

Ms. Aquilino asked Mr. Murray if someone had asked the manager why he made the sale after looking at the identification. Mr. Murray stated that he did and the manager said he made a mistake. Mr. Murray further stated that they take this very seriously. They have pre shift meetings to remind staff about identification verification.

Mrs. Thall read the Boards options for penalty including the deferred judgement option.

Ms. Bussard read that there was no violation history.

MOTION: Mr. Davis made a motion to asses a \$500.00 fine, suspend \$250.00.

SECOND: Ms. Aquilino seconded the motion.

FURTHER DISCUSSION ON THE MOTION: There was no further discussion.

VOTE: Mrs. Burrell -Aye
Mr. Davis – Aye
Ms. Aquilino - Aye

The vote was unanimous **Ayes 3, Nay-0**
(Motion passed)

b. Sales to Minor

Sushi Densha
Ron Cheng
for the use of Orange Concept, Inc.
t/a Sushi Densha
5010 Buckeystown Pike, Suite 148
Frederick, MD 21704
Class B, On Sale, Beer, Wine & Liquor
License #11BL 3480, FCLB Case#11566

Mrs. Thall swore in the witnesses. Mrs. Thall read the charge that on May 4th, 2018 at approximately 8:53 pm, either directly or through an employee, you sold or provided an alcoholic beverage to a person under the age of twenty one years. The person identified as Holly Selbert was allowed to possess an alcoholic beverage in violation of §6-304 Maryland Annotated Code and §6.16 (a) and (g) of the Frederick County Alcoholic Beverages Regulations. The licensee plead not guilty. The Maryland State Police report was made part of the record.

Mrs. Thall asked Officer Carter to describe the events of that evening. She asked if he had inspected Ms. Selbert's identification. He replied, "Correct." The identification showed her age as nineteen. She asked if he had a copy of the minor's driver license. He replied, "I do not." Officer Carter entered the establishment and sat within sight of Ms. Selbert. He observed her being served a glass of wine. The server did request the identification but the sale was made anyway. After the sale was made the minor exited the establishment and Officer Carter issued a citation to the bartender. She told the officer that she was having a bad day and did the mental math wrong. The officer identified the pictures in the report to Mrs. Thall. The minor completed a buyer's report. Mrs. Thall made that report a part of the record.

Mrs. Cheng stated the bartender moved to North Carolina. She is no longer employed there.

Mrs. Burrell asked if a copy of the minor's driver license was taken for the report. Officer Carter said, "If it is not on my report, then no ma'am." Mrs. Burrell asked if the compliance reports had changed. Officer Carter said that he was unaware of that and he is sorry. Ms. Bussard added that the minor's identification is on file with other reports. The minor was not excused from the hearing. Mrs. Burrell wanted to make sure they have TIPS certified personnel on staff. Mrs. Cheng stated that they are all trained. She said they had a meeting with all the servers to make sure that everyone does the math right. They also have the ID Book on site if they have questions on an identification. All patrons have to be carded.

Mrs. Cheng was concerned that the officer did not ask for an on duty manager. The licensee was not notified until the Inspector delivered the letter for this violation. Mrs. Burrell wanted to clarify that they were not notified.

Ms. Aquilino asked Officer Carter if it was normal procedure to just notify the server. Officer Carter said, "He was not advised to contact a manager on these compliance checks." He said there appeared to be a manager in the back working. When he came back in to ask Ms. Fink for her identification, she went to the back and spoke with that person. He is not aware if she had discussed what just happened. Mrs. Burrell clarified that there was no impeding of vision from the officer to the minor. She made the officer aware that a copy of the identification would be needed in the future. Ms. Aquilino asked that a manager

be notified after the incident. Mrs. Burrell wants to be clear that we have an eye witness, preferably the inside officer present at these hearings.

Mrs. Thall asked the Board to answer to the finding of guilt for each charge. All Board members agreed.

Ms. Bussard read that the violation history. On August 8th, 2012, No Regulation Book, a warning was issued. On May 17th, 2013, Late to file a Renewal, paid a \$50.00 no contest fine. On April 5th, 2015, Late to file a Renewal, paid a \$150.00 no contest fine. On May 1st, 2015, Late to File a Renewal, paid a \$2400.00 no contest fine. On August 2nd, 2017, Late to File Alcohol Ratio, a warning was issued.

The licensees said they wanted to request the deferred judgement from the Board. Mrs. Thall read the Board's options for penalty including the deferred judgement option. She asked the Board members if they had good cause to offer this option. The Board members agreed.

Ms. Aquilino asked the licensee if they understood what the deferred judgment meant. Mrs. Cheng explained it back to her and they understood the consequences.

MOTION: Ms. Aquilino made a motion to grant deferred judgement.

SECOND: Mr. Davis seconded the motion.

FURTHER DISCUSSION ON THE MOTION: There was no further discussion.

VOTE: Mrs. Burrell -Aye
Mr. Davis – Aye
Ms. Aquilino - Aye

The vote was unanimous **Ayes 3, Nay-0**
(Motion passed)

c. Sales to Minor

6-10 Gas Mart
Dai-Yong Eom and Sang Lee
for the use of Urbana BP, LLC.
t/a 6-10 Gas Mart
1904 Urbana Pike
Hyattstown, MD 20871
Class A, Off Sale, Beer, Light Wine
License #11AW 1021 SU, FCLB Case#11551

Mrs. Thall swore in the witnesses. Mrs. Thall read the charge that on May 4th, 2018 at approximately 6:39 pm, either directly or through an employee, you sold

or provided an alcoholic beverage to a person under the age of twenty one years. The person identified as Holly Selbert was allowed to possess an alcoholic beverage in violation of §6-304 Maryland Annotated Code and §6.16 (a) and (g) of the Frederick County Alcoholic Beverages Regulations. The licensee plead guilty. The Maryland State Police report was made part of the record.

The officer and the minor entered the store separately. The officer browsed the chip aisle while the minor went to the beer cooler and picked up a six pack of Budweiser cans. The clerk did request to see identification and moved the scanner to show of age on the computer. The clerk paused for about 30 seconds, then handed the identification back to the minor. After the minor exited the store the officer made contact with the clerk to inform her she had just made a sale to a minor. She said her mental math was off that day.

Mrs. Burrell asked the officer where he was standing at the time of the sale. Officer Carter stated he could see the minor and the transaction take place. He did not get a copy of the driver's license prior to the sale.

Mrs. Burrell wanted the licensee to identify the alcohol awareness trained person on staff that evening. Mr. Lee stated that it was Min Kim Lee. He is the store manager. He apologized that he was not there at the time. There were two people working at the time of the sale.

The attorney representing the establishment Chris May spoke to the fact that they have posted signs at the door for underage sales. Also they have gotten all the staff TIPS certified since the incident. The personal representative of the estate will be selling the business out of the estate when the appropriate time comes. He said his client understands the severity of the violation and has addressed it accordingly. They have the calendar to help them check age and dates. Mr. Lee added that everyone is aware of how serious this is. This will not happen again.

Ms. Bussard went over the violation history. On May 1st, 2014, Failure to Notify of an address change, a warning was issued.

Mrs. Thall read the Board's options for penalty including the deferred judgement option. The licensee requested this option. She asked the Board members if they have good cause to offer this option. The Board members agreed.

MOTION: Ms. Aquilino made a motion to grant deferred judgment.

SECOND: Mr. Davis seconded the motion.

FURTHER DISCUSSION ON THE MOTION: There was no further discussion.

VOTE: Mrs. Burrell -Aye
Mr. Davis – Aye
Ms. Aquilino - Aye

The vote was unanimous ***Ayes 3, Nay-o***
(Motion passed)

3. Flying Dog – The case was already heard back in March, they are back here today for the finding in the case. Robert Kresslein asked that this Board to review the stipulations of adopting a policy of Deferred Judgement. He is requesting this option be applied to their case that was postponed. He explained to the newest Board members the reasons behind his request. The severity of the impact of guilty finding in this case would effect this establishment in derogatory way. He complimented the Board for their insight and allowing his suggestions on critiquing the policy.

Since the incident they have implemented new scanners and continue their training to employees. They have very strict procedures when it comes to checking identifications. He is requesting that if the Board considers this option for Flying Dog that they make it retroactive back to March 26th, 2018.

Mrs. Burrell reviewed that the policy has taken six months to roll out because of making sure it was transparent and offered to every licensee fairly. This was to set the bar high and make sure it had all the right legal aspects taken into consideration.

MOTION: Ms. Aquilino made a motion to grant deferred judgement as of March 26th, 2018. There is good cause for deferment.

SECOND: Mr. Davis seconded the motion.

FURTHER DISCUSSION ON THE MOTION: There was no further discussion.

VOTE: Mrs. Burrell -Aye
Mr. Davis – Aye
Ms. Aquilino – Aye

The vote was unanimous ***Ayes 3, Nay-o***
(Motion passed)

4. New Licenses
a. Walkersville Feed

Walkersville Feed
Nader Hahn & Joseph Quinn
for the use of Walkersville Feed Company
t/a Walkersville Feed
35 West Pennsylvania Avenue
Walkersville, MD 21793
Class A, Off Sale, Beer & Light Wine

Mrs. Thall swore in the applicants. The pending items are Trader's License, Occupancy Permit, Fire Marshal, and the Inspector's report. Ms. Bussard asked Mr. Hahn if he has finalized his paperwork with the permits office. Mr. Hahn has applied for what he thinks is the accurate paperwork. He does not understand why this is an issue because he operates there now under his occupancy permit. He has requested it to be resolved with the permits office. Inspector Lind went out to the establishment on September 10th, 2018 and it met all the requirements of the Liquor Board.

Mrs. Thall asked for a time frame of resolving the permits issue. Mr. Hahn met with the inspectors from permits over the weekend and he had stated that they had no issues with signing off on this request. Mr. Hahn added that there is no changes to the business or the building. He said the permits office seems to be holding it up. He asked for three months to get this cleared up because he feels the county will not act quickly.

Mrs. Burrell asked Mr. Hahn if his TIPS training and ABLE training had been completed. Ms. Bussard confirmed that this has all been completed in our office.

Mr. Hahn wanted to clarify that the permits office is holding up his occupancy approval and he can't understand why they are doing this. This building has been approved by the Fire Marshal and is operating now. Ms. Bussard stated that she can't answer for that agency. He will have to clear it up with them. He is frustrated with them. Mrs. Burrell added that we cannot control them and she apologized that this has been an issue for him. Mr. Davis said we are attempting to resolve these type of issues with the other agencies in general.

MOTION: Mr. Davis made a motion to grant conditional approval until January 31st, 2019.

SECOND: Ms. Aquilino seconded the motion.

FURTHER DISCUSSION ON THE MOTION: There was no further discussion.

VOTE: Mrs. Burrell -Aye
Mr. Davis – Aye
Ms. Aquilino - Aye

The vote was unanimous **Ayes 3, Nay-0**
(Motion passed)

b. Cinco De Mayo Urbana

Cinco De Mayo Urbana
Loretta Newton
for the use of Cinco De Mayo Urbana, Inc.
t/a Cinco De Mayo Urbana
3501 John Simmons Street
Frederick, MD 21704

Class B, On Sale, Beer, Wine, & Liquor

Mrs. Thall swore in the applicants. The pending items are the Retail Sales Tax, Fingerprinting, Trader's License, Health Department, Fire Marshal, and the Inspectors Report. Marty Johnson a license consultant for this application updated the Board on the pending items. The inspection items are still pending because they are under construction. They will have the fingerprinting done today after the hearing. He added that allowing the applicants to do this is helpful and he appreciates the change in policy. Inspector Shrum has not been out to this location because it is under construction.

Mrs. Burrell asked what time frame they will need for conditional approval. Mr. Johnson asked to give them until the end of June, 2019 to be safe. All the alcohol awareness certificates are on file now. He has 21 people certified. Mrs. Burrell informed the applicant that we have templates on our website for the establishments

There was no public comment.

MOTION: Mr. Davis made a motion to grant conditional approval until June 1st, 2019.

SECOND: Ms. Aquilino seconded the motion.

FURTHER DISCUSSION ON THE MOTION: There was no further discussion.

VOTE: Mrs. Burrell -Aye
Mr. Davis – Aye
Ms. Aquilino - Aye

The vote was unanimous **Ayes 3, Nay-o**
(Motion passed)

5. Minutes Update – Mrs. Shugars stated that all minutes are up to date via email votes.
6. Public Comment – There was no public comment

Meeting adjourned at 10:25 am

Respectfully submitted,
Dawn Shugars, Administrative Specialist V
FREDERICK COUNTY LIQUOR BOARD